

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION

CHERYL PHIFER, et al.,

Plaintiffs,

Hon. Janet T. Neff

v.

Case No. 1:09-cv-00927

MICHIGAN SPORTING GOODS  
DISTRIBUTORS, INC.,

Defendant.

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**REPORT AND RECOMMENDATION**

On May 26, 2010, the Court held a hearing on Defendant's Motion to Dismiss (Dkt. 16), Plaintiff's Amended Motion to Amend Complaint (Dkt. 31), and Plaintiff's Motion to Amend Complaint (Dkt. 27).

Defendant's Motion to Dismiss was heard previously on April 15, 2010, and Plaintiff Terence Banks neither appeared nor filed any written opposition to the motion. Because he is a pro se party, he cannot be represented at a hearing or in paper filings by other pro se plaintiffs. Mr. Banks has now failed to appear at the May 26, 2010 hearing in response to the Order to Show Cause issued after he did not appear at the earlier hearing. For this reason, the undersigned recommends that Defendant's Motion to Dismiss (Dkt. 16) be GRANTED as to Plaintiff Terence Banks, and that the claims of Plaintiff Terence Banks be dismissed with prejudice pursuant to Fed. R. Civ. P. 41(b) and W.D.Mich. L.Civ.R. 41.1 for want of prosecution and failure to comply with the rules and orders of

this court. Timely objections to this Report and Recommendation shall be considered Plaintiff's final opportunity to show cause why this matter should not be dismissed.

Respectfully submitted,

Date: May 27, 2010

/s/ Ellen S. Carmody  
ELLEN S. CARMODY  
United States Magistrate Judge

OBJECTIONS to this Report and Recommendation must be filed with the Clerk of Court within 14 days of the date of service of this notice. 28 U.S.C. § 636(b)(1)(C). Failure to file objections within the specified time waives the right to appeal the District Court's order. *Thomas v. Arn*, 474 U.S. 140, 155 (1985); *United States v. Walters*, 638 F.2d 947, 949-50 (6th Cir. 1981).